

*State of Tennessee v. Sedrick Clayton*

No. W2015-00158-SC-DDT-DD

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On the morning of January 19, 2012, around 12:40 a.m., Defendant, Sedrick Clayton, entered the home of former girlfriend, Pashea Fisher.<sup>1</sup> According to Pashea's brother, A. Fisher, who had been sleeping on the couch of the family's living room, he could hear loud voices coming from the end of the hallway.<sup>2</sup> The voices belonged to Pashea and Clayton.<sup>3</sup> Their argument led to a "tussle in the hallway."<sup>4</sup> Pashea walked down the hall toward their parents' bedroom, entered the bedroom and locked the door behind her.<sup>5</sup> A. Fisher heard yelling followed by gunshots.<sup>6</sup> Based on the evidence, including a wood splinter lodged in Pashea's pants, Lieutenant Mullins, testifying as an expert in blood stain pattern, opined that at this point in the night, Pashea was first shot in the leg when Clayton began shooting through the bedroom door.<sup>7</sup> Clayton used his shoulder to break down the bedroom door and forced his way in.<sup>8</sup> The large pool of blood on the floor evidenced that the father was shot before the mother.<sup>9</sup> The blood trail from the parents' bed to the bedroom door evinced that the mother was first shot on the bed, and then again by the door.<sup>10</sup> After the shooting of the parents, the Defendant Clayton dragged Pashea from the end of the hallway to the front of the house.<sup>11</sup> He threatened to shoot her in the head, which he did before leaving the premises.<sup>12</sup> Before leaving, however, Clayton fired his gun in the general direction of the sofa, knowing that Fisher usually slept there.<sup>13</sup>

Later that morning, at approximately 7 a.m., Clayton contacted the police station to inform them that he was turning himself in and was willing to give a statement.<sup>14</sup> Before the lieutenant could review the Advice of Rights with Clayton, Clayton began making a statement, beginning with an apology.<sup>15</sup> The officers tried to interrupt Clayton to review the Advice of Rights, which they did completely.<sup>16</sup> During his statement, Clayton never asked to stop the interview and never asked for an attorney.<sup>17</sup> The jury ultimately found the defendant guilty of all counts in the indictment, which included three counts of first-degree murder and one count of attempted first-degree murder.<sup>18</sup>

During the penalty phase, based on the evidence, the jury found two aggravating circumstances beyond a reasonable doubt for each of the three victims of first-degree murder: (1) Clayton "knowingly created a

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<sup>1</sup> *State v. Clayton*, No. W201500158SCDDTDD, 2017 WL 5575027, \*1, (Tenn. Nov. 20, 2017)

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at \*5

<sup>5</sup> *Id.* at \*1

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at \*6

<sup>8</sup> *Id.* at \*5

<sup>9</sup> *Id.* at \*6

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at \*1

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at \*6

<sup>14</sup> *Id.* at \*3

<sup>15</sup> *Id.* at \*4

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at \*6

great risk of death to two or more persons, other than the victim murdered, and (2) Clayton committed mass murder.<sup>19</sup> The jury sentenced Clayton to death for all three convictions of first-degree murder.<sup>20</sup> The Tennessee Supreme Court held, affirming the Court of Criminal Appeals, that: (1) the evidence was sufficient to support the jury's findings that Clayton acted with premeditation in commission of the offenses; (2) Clayton waived his Fourth Amendment challenge to the trial court's denial of his motion to suppress his statements; and (3) each of the death sentences satisfies the mandatory statutory review pursuant to Tennessee Code Annotated § 39-13-206.<sup>21</sup>

In the Court's opinion, it addressed Clayton's waiver of his Fourth Amendment claim that his statement to police during the interview should be suppressed.<sup>22</sup> This Court has held that "where the record on a pretrial suppression motion . . . clearly presents an evidentiary question, and where the trial judge has clearly and definitively ruled," trial counsel need not offer further objections to the trial court's ruling.<sup>23</sup> Here, the Court concluded that counsel's failure to obtain a ruling with regard to Clayton's Fourth Amendment argument after the suppression hearing and failure to renew this argument during the motion for a new trial resulted in waiving his claim of error.<sup>24</sup>

The Court also addressed the mandatory review of a death sentence as administered in Tennessee under §39-13-206(a)(1).<sup>25</sup> According to statute, the review of a death sentence includes analyzing whether (1) a death sentence was imposed in any arbitrary fashion; (2) the evidence supports a jury's findings of statutory aggravating circumstances; (3) evidence supports a jury's finding that aggravating circumstances outweighed any mitigating circumstances; and (4) a capital sentence is excessive or disproportionate to the penalty imposed in similar cases, considering both the nature of the crime and a defendant.<sup>26</sup>

In reviewing the fourth element, the standard of review in regard to the fourth element that the Court is required to review, the standard of review is set forth in a proportionality test in which the Court must determine whether it is excessive or disproportionate to a penalty imposed in similar cases; insofar as it is "disproportionate to the punishment imposed on others convicted of the same crime."<sup>27</sup> A death sentence is disproportionate if a case is "plainly lacking in circumstances consistent with those in cases where the death penalty has been imposed."<sup>28</sup> Thus, in our proportionality review, the Court examines the facts and circumstances of a crime, a defendant's characteristics, and any aggravating and mitigating circumstances involved.<sup>29</sup> More specifically, the Court must consider: (1) the means of death; (2) the manner of death; (3) the motivation for the killing; (4) the place of death; (5) the victim's age, physical condition, and psychological condition; (6) the absence or presence of premeditation; (7) the absence or presence of provocation; (8) the absence or presence of justification; and (9) the injury to and effect upon non-decedent victims.<sup>30</sup> In addition to those factors, the Court also considers several factors about the defendant, including his or her (1) record of prior criminal activity; (2) age, race, and gender; (3) mental,

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<sup>19</sup> *Id.* at \*7

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at \*16

<sup>22</sup> *Id.* at \*9

<sup>23</sup> *Id.* at \*10 (citing *State v. McGhee*, 746 S.W.2d 460, 462 (Tenn. 1988)).

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at \*12

<sup>26</sup> Tenn. Code Ann. § 39-13-206(c)(1)(A)-(D) (West, Westlaw Current through end of the 2017 First Regular Session of the 110th Tennessee General Assembly); *Clayton*, 2017 WL 5575027, \*12.

<sup>27</sup> *Id.* \*14 (quoting *Pulley v. Harris*, 465 U.S. 37, 43 (1984)).

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* (quoting *State v. Stevens*, 78 S.W.3d 817, 842 (Tenn. 2002)).

<sup>30</sup> *Id.* (quoting *State v. Reid*, 164 S.W.3d 286, 316 (Tenn. 2005)).

emotional, and physical conditions; (4) role in a murder; (5) cooperation with authorities; (6) level of remorse; (7) knowledge of the victim’s helplessness; and (8) potential for rehabilitation.<sup>31</sup>

The Tennessee Supreme Court held this case was comparable to other convictions resulting in a death sentence.<sup>32</sup> Moreover, Clayton’s lack of criminal history does not thwart the imposition of the death sentence.<sup>33</sup> The Court similarly noted it has rejected pleas of relief based on alleged “cooperation” with law enforcement.<sup>34</sup> The death sentence in this case was not disproportionate to the penalty imposed for the similar crimes under similar circumstances.<sup>35</sup>

Lastly, taking the evidence in the light most favorable to the State, the rational trier of fact could have concluded that the overwhelming evidence underlying the aggravating circumstances outweighed the mitigation beyond a reasonable doubt.<sup>36</sup>

All defendants charged with crimes deserve a competent and rigorous defense because of the higher stakes in a criminal matter, the loss of liberty, and none more so than in a capital punishment case where the stakes for the defendant are at the highest—the loss of life. This case and the Court’s subsequent analysis illustrates the incredible importance of compliance with all procedural requirements when mounting a defense on behalf of a defendant, as the failure to comply with certain procedural rules ultimately resulted in Clayton waiving review of his Fourth Amendment violation claim on appeal. Despite this waiver, the Court of Criminal Appeals did conduct a review of his claim; but, because of that waiver, consideration of that claim was pursuant to the Court’s Plain Error Review, a much higher burden to meet. This case highlights the importance of ensuring compliance with all procedural requirements at every stage of the litigation process and reaffirms that, though a person has enumerated constitutional rights, in order for your constitutional rights to be exercised, a defendant must do exactly that—make a clear showing of intent to exercise your rights. This right is not guaranteed unless it exercised properly.

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<sup>31</sup> *Id.* (quoting *Reid*, 164 S.W.3d at 316-17).

<sup>32</sup> *Id.* at \*16

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.* at \*14